IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B. Sales Tax Revision Petition No. 74/2007

Assistant Commercial Taxes Officer,
Ward-I, Circle-Ajmer, Ajmer

Versus

M/s. R.B. Trading Company,
Kutchery Road, Ajmer

::

Date of order :: September 17, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Amit Ratnawat on behalf of Mr. R.B. Mathur for the petitioner-Revenue

BY THE COURT:

1. Heard learned counsel for the petitioner-Revenue.

2. This revision petition has been filed against the order of the Tax Board dated 28.10.2002 and 11.06.2004 upholding the order of the first appellate authority, namely Deputy Commissioner (Appeals) dated 14.02.2001, wherein the Tax Board has held that penalty

imposed by the Assessing Authority under Section 61 of the RST Act, 1994 for late filing of return in prescribed Form No. 5A could not be enhanced from Rs. 200/- to Rs. 3720/- by resort to Section 37 of the Act, which is meant for rectification of mistakes apparent from the face of the record. According to both the appellate authorities, since imposition of penalty was a conscious and considered decision at the time of passing of the original assessment order, it could not be said to be mistake apparent from the face of the record and therefore, the learned Assessing Authority could not resort to Section 37 of the Act to enhance the penalty of Rs. 200/- to Rs. 3720/-.

3. Having considered the submission of the learned counsel for the petitioner-Revenue, this court is satisfied that no question of law arises under Section 86 of the Act in the present case. The present revision petition is devoid of merit and the same deserves to be dismissed.

4. Consequently, this revision petition is dismissed with no order as to costs. A copy of this order be sent to the respondent assessee.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 13